

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed August 15, 2006. To clarify various aspects of inventive subject matter, Applicant amends Claims 1, 7, 18, 35, 36, 49, 58, 73, and 74. Applicant also introduces new Claims 75-86 and cancels Claims 10, 13, 17, 33, 34, 53, 57, 62, 67, 71, and 72 without prejudice or disclaimer. To advance prosecution of this application, Applicant has responded to each notation by the Examiner. Applicant submits that all of the pending claims are in a condition of allowance. Applicant respectfully requests reconsideration, further examination, and favorable action in this case.

**Claim Rejections – 35 U.S.C. §112 ¶1**

The Examiner rejects Claims 18, 24-25, 27, 33-35, and 56-66 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement because “[t]he claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.” In particular, the Examiner alleges that certain limitations recited in these claims are not described in the Specification. *See Office Action at 2.* Applicant respectfully disagrees. Applicant addresses the Examiner’s rejection of independent Claim 18 below. In addressing the Examiner’s rejection, Applicant may refer to example descriptions within the Specification; however, reference to these example descriptions should not be used to limit Applicant’s claims.

To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. *See M.P.E.P. § 2163.I.* An application’s written description is “presumed to be adequate, unless or until sufficient evidence or reasoning to the contrary has been presented by the Examiner to rebut the presumption.” *M.P.E.P. § 2163.04.* The burden falls on the Examiner to establish a “reasonable basis to challenge the adequacy of the written description.” *M.P.E.P. § 2163.04.* The Examiner must present evidence of “why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims.” *M.P.E.P. § 2163.04; see also M.P.E.P. § 2163.III(A).* “The subject matter of the claim need not be

described literally in order for the disclosure to satisfy the description requirement.” *M.P.E.P. § 2163.02*. “Mere rephrasing of a passage does not constitute new matter. Accordingly, a rewording of a passage where the same meaning remains intact is permissible.” *M.P.E.P. § 2163.07.I*. Additionally, “[t]o comply with the written description requirement of 35 U.S.C. 112, para. 1 . . . each claim limitation must be expressly, implicitly, or inherently supported in the originally filed disclosure.” *M.P.E.P. § 2163.05*. Consequently, a specification that conveys “with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed” satisfies the written description requirement. *M.P.E.P. § 2163.02*.

**A. Independent Claim 18 is Described in the Specification**

Claim 18 recites an optical communication device that includes a plurality of integrated modules, an optical splitter, and a controller. Applicant’s disclosure is sufficient to convey to one skilled in the art that, as of the filing date, applicant was in possession of the invention as claimed. For example, in the Application, Figure 7 illustrates one exemplary embodiment of an optical transmitter system 380 that includes a mode locked source 382, a continuum generator 384, a signal splitter 386, and an integrated module (e.g., line card 390 or modulator 392). Mode locked source 382, continuum generator 384, and signal splitter 386 can comprise equipment shared by plurality of line cards 390. *See e.g., Page 33, Lines 4-8*. The integrated module illustrated in Figure 7 and as described in the specification, is capable of receiving multiple wavelengths from signal splitter 386, encoding information onto each of the multiple wavelengths received, and communicating the multiple wavelengths to the star switching fabric. *See e.g., Page 32, Line 29 - Page 33, Line 16*.

The specification further provides that “where it is desired to generate a larger bandwidth of optical signals, multiple sets of common bay equipment 381 can be implemented, each set serving a separate set of line cards 390 and each generating a separate range of wavelengths.” *See e.g., Page 33, Lines 4-8*. Thus, the specification provides that each of a plurality of integrated modules are capable of performing their recited functionality. *See e.g., written description for Figure 7*.

As discussed above, Applicant’s Specification contemplates that each of a plurality of integrated modules are operable to communicate a multiple wavelength output optical signal.

Thus, the above-cited portions of Applicant's specification, along with the rest of the Application, are sufficient to convey to one skilled in the art that, as of the filing date, applicant was in possession of the invention as claimed in Claim 18.

**B. Conclusion**

The above-cited portions of Applicant's specification, along with the rest of the Application, are sufficient to convey to one skilled in the art that, as of the filing date, applicant was in possession of the invention as claimed. The Examiner has not explained why Applicant's written description fails to convey to those skilled in the art that, as of the filing date, applicant was in possession of the invention as claimed. The Examiner has not met his initial burden "of presenting evidence by a preponderance of evidence why a person skilled in the art would not recognize" in the present application, a description of the invention as defined by the claims. Nevertheless, for the Examiner's convenience, Applicant has identified example locations in the originally filed specification that support the claimed subject matter. Consequently, Applicant respectfully requests withdrawal of the rejection of Claims 18, 24-25, 27, 33-35, and 56-66.

**Claim Rejections – 35 U.S.C. §112 ¶2**

The Examiner rejects Claims 1, 7-11, 13-14, 17, 35, 48-55, and 66 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended Claims 1, 7, 35, and 49, and has cancelled Claims 13, 17, and 53. Applicant believes these amendments do not narrow the scope of the claims, but address the Examiner's rejections under §112. Applicant respectfully requests reconsideration and favorable action in this case.

**Claim Rejections – 35 U.S.C. §102**

The Examiner rejects Claims 36, 41, 43, 47, 68, 71, 74 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,005,167 ("*Arthurs '167*"). The Examiner also rejects Claim 36 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,873,681 by Arthurs et al. ("*Arthurs '681*"). Applicant respectfully traverses these claim rejections for the reasons discussed below.

Applicant provides a reminder that “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. § 2131. In addition, “[t]he elements *must* be arranged as required by the claim.” *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q. 2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131 (emphasis added).

Among other features, amended independent Claim 36 recites, in part, “at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source.”

*Arthurs '167* fails to teach or suggest a number of elements of amended Claim 36. For example, nowhere does *Arthurs '167* contemplate that at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source. Consequently, *Arthurs '167* fails to teach or suggest that “at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source.”

*Arthurs '681* fails to teach or suggest a number of elements of amended Claim 36. For example, nowhere does *Arthurs '681* contemplate that at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source. Consequently, *Arthurs '681* fails to teach or suggest that “at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source.”

Applicants submit that amended independent Claim 36 is patentable over *Arthurs '167* and *Arthurs '681* for at least the reasons discussed above. Thus, Applicants respectfully request withdrawal of the rejection and full allowance of amended Claim 36 and all claims depending therefrom.

Applicant submits that amended independent Claims 1 and 18 are patentable over *Arthurs '167* and *Arthurs '681* for at least the reasons discussed above. Thus, Applicant respectfully requests withdrawal of the rejection and full allowance of amended Claims 1 and 18, and all claims depending therefrom.

### **Claim Rejections – 35 U.S.C. §103**

The Examiner rejects Claims 69-70 under 35 U.S.C. § 103(a) as being unpatentable over *Arthurs '167* in view of U.S. Patent No. 5,636,045 by Okayama et al. ("*Okayama*"). The Examiner also rejects Claim 72 U.S.C. § 103(a) as being unpatentable over *Arthurs '167* in view of U.S. Patent No. 5,428,470 by Labriola, II ("*Labriola*"). The Examiner also rejects Claim 73 U.S.C. § 103(a) as being unpatentable over *Arthurs '167*. The Examiner also rejects Claims 1, 7-8, 11, 13-14, 17, 49, 52-56, and 55 U.S.C. § 103(a) as being unpatentable over *Arthurs '167* in view of U.S. Patent No. 5,173,794 by Cheung et al. ("*Cheung*"). The Examiner also rejects Claim 9 U.S.C. § 103(a) as being unpatentable over *Arthurs '167* in view of *Cheung* and in further view of U.S. Patent No. 6,532,088 by Dantu et al. ("*Dantu*"). The Examiner also rejects Claims 50-51 under 35 U.S.C. § 103(a) as being unpatentable over *Arthurs '167* in view of *Cheung* and in further view of *Okayama*. The Examiner also rejects Claim 54 under 35 U.S.C. § 103(a) as being unpatentable over *Arthurs '167* in view of *Labriola*. The Examiner also rejects Claim 1 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,873,681 by Arthurs et al. ("*Arthurs '681*") in view of *Cheung*. The Examiner also rejects Claim 48 under 35 U.S.C. § 103(a) as being unpatentable over *Arthurs '681* in view of *Cheung* and in further view of *Arthurs '167*. The Examiner also rejects Claims 18, 24, 27, 33-35, 56-68, 61-62, and 64-66 under 35 U.S.C. § 103(a) as being unpatentable over *Arthurs '681* in view of *Arthurs '167*. The Examiner also rejects Claim 25 under 35 U.S.C. § 103(a) as being unpatentable over *Arthurs '681* in view of *Arthurs '167* and in further view of *Dantu*. The Examiner also rejects Claims 59-60 under 35 U.S.C. § 103(a) as being unpatentable over *Arthurs '681* in view of *Arthurs '167* and in further view of

*Okayama*. The Examiner also rejects Claim 63 under 35 U.S.C. § 103(a) as being unpatentable over *Arthurs '681* in view of *Arthurs '167* and in further view of *Labriola*. Applicant respectfully traverses these claim rejections for the reasons discussed below.

Applicant provides a reminder that to defeat a patent under 35 U.S.C. § 103, “the prior art reference must teach, disclose, or suggest all the claim limitations.” *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991); M.P.E.P. § 706.02(j). Applicant respectfully submit that neither *Harstead* nor knowledge supposedly generally available to those of ordinary skill in the art at the time of the invention, taken alone or in combination, teach or suggest, either expressly or inherently, a number of elements of independent Claim 36.

**A. The Proposed *Arthurs '681-Cheung*, *Arthurs '681-Cheung*, and *Arthurs '681-Arthurs '167* Combinations Fail to Disclose, Teach, or Suggest Each and Every Limitation Recited in Claims 1 and 18**

Applicant submits that Claim 1 is patentable over *Arthurs '167* in view of *Cheung* and *Arthurs '681* in view of *Cheung*. Among other features, amended Claim 1 recites, in part, that “at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source.”

*Arthurs '167* fails to teach or suggest a number of elements of amended Claim 1. For example, nowhere does *Arthurs '167* contemplate that at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source. Consequently, *Arthurs '167* fails to teach or suggest that “at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source.”

*Arthurs '681* also fails to teach or suggest a number of elements of amended Claim 1. For example, nowhere does *Arthurs '681* contemplate that at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source. Consequently, *Arthurs '681* fails to teach or suggest that "at least one of the one or more transmitters comprises a super-continuum source comprising an optical amplifier and a length of optical fiber followed by one or more modulators capable of modulating information on an output from the super-continuum source."

Neither the *Cheung* reference nor the *Arthurs '167* reference atones for the deficiencies of *Arthurs '681*. For at least these reasons, Applicant submits that *Arthurs '167* or *Arthurs '681*, and *Cheung*, taken alone or in combination, fail to teach or suggest amended Claim 1. Applicant respectfully requests withdrawal of the rejection and full allowance of independent Claim 1 and all claims depending therefrom.

Applicant submits that amended independent Claim 18 is patentable over *Arthurs '681* in view of *Arthurs '167* for at least the reasons discussed above. Thus, Applicant respectfully requests withdrawal of the rejection and full allowance of amended Claim 18 and all claims depending therefrom.

**B. The Proposed *Arthurs '167-Cheung*, *Arthurs '681-Cheung*, and *Arthurs '681-Arthurs '167* Combinations are Improper**

The rejection of Applicant's claims is also improper because the Examiner has not shown the required teaching, suggestion, or motivation in *Arthurs '681*, *Arthurs '167*, or in the knowledge generally available to those of ordinary skill in the art at the time of the invention to combine or modify the *Arthurs '681* or *Arthurs '167* reference in the manner the Examiner proposes. The rejected claims are allowable for at least this additional reason.

**1. The Obviousness Standard**

The question raised under 35 U.S.C. § 103 is whether the prior art taken as a whole would suggest the claimed invention taken as a whole to one of ordinary skill in the art at the time of the invention. Accordingly, even if all elements of a claim are disclosed in various

prior art references, which is certainly not the case here as discussed above, the claimed invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill at the time of the invention would have been prompted to modify the teachings of a reference or combine the teachings of multiple references to arrive at the claimed invention. It is clear based at least on the many distinctions discussed above that the proposed *Arthurs '167-Cheung*, *Arthurs '681-Cheung*, and *Arthurs '681-Arthurs '167* combinations do not, taken as a whole, suggest the claimed invention, taken as a whole. Respectfully, it appears to Applicant that the Examiner has *merely pieced together disjointed portions of references, with the benefit of hindsight using Applicant's claims as a blueprint, in an attempt to reconstruct Applicant's claims.*

The governing Federal Circuit case law makes this strict legal standard clear.<sup>1</sup> According to the Federal Circuit, "a showing of a suggestion, teaching, or motivation to combine or modify prior art references is an essential component of an obviousness holding." *In re Sang-Su Lee*, 277 F.3d 1338, 1343, 61 U.S.P.Q.2d 1430, 1433 (Fed. Cir. 2002) (quoting *Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 U.S.P.Q.2d 1456, 1459 (Fed. Cir. 2000)). "Evidence of a suggestion, teaching, or motivation . . . may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, the nature of the problem to be solved." *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). However, the "range of sources available . . . does not diminish the requirement for actual evidence." *Id.* ***Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so."*** *In re Mills*, 916 F.2d at 682, 16 U.S.P.Q.2d at 1432 (emphasis added). *See also In re Rouffet*, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453, 1457-58 (Fed. Cir. 1998) (***holding a prima facie case of obviousness not made where the combination of the references taught every element of the claimed invention but did not provide a motivation to combine***); *In Re Jones*, 958 F.2d 347, 351, 21 U.S.P.Q.2d 1941, 1944 (Fed. Cir. 1992) ("Conspicuously missing from this record is any evidence, other than the PTO's speculation (if that can be called evidence) that one of ordinary skill in the herbicidal art would have been motivated to make the modification of the prior art salts necessary to arrive at" the claimed invention.). Even a determination that it

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<sup>1</sup> Note M.P.E.P. 2145 X.C. ("The Federal Circuit has produced a number of decisions overturning obviousness rejections due to a lack of suggestion in the prior art of the desirability of combining references.").



would have been obvious to one of ordinary skill in the art at the time of the invention to try the proposed modification or combination is not sufficient to establish a *prima facie* case of obviousness. *See In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988).

In addition, the M.P.E.P. and the Federal Circuit repeatedly warn against using an applicant's disclosure as a blueprint to reconstruct the claimed invention. For example, the M.P.E.P. states, “*The tendency to resort to 'hindsight' based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.*” M.P.E.P. § 2142 (emphasis added). The governing Federal Circuit cases are equally clear. “A critical step in analyzing the patentability of claims pursuant to [35 U.S.C. § 103] is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. . . . Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one ‘to fall victim to the insidious effect of a hindsight syndrome *wherein that which only the invention taught is used against its teacher.*’” *In re Kotzab*, 217 F.3d 1365, 1369, 55 U.S.P.Q.2d 1313, 1316 (Fed. Cir. 2000) (citations omitted; emphasis added). In *In re Kotzab*, the court noted that to prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. *See id.* *See also, e.g., Grain Processing Corp. v. American Maize-Products*, 840 F.2d 902, 907, 5 U.S.P.Q.2d 1788, 1792 (Fed. Cir. 1988). Similarly, in *In re Dembiczak*, the Federal Circuit reversed a finding of obviousness by the Board, *explaining that the required evidence of such a teaching, suggestion, or motivation is essential to avoid impermissible hindsight reconstruction of an applicant's invention:*

Our case law makes clear that the best defense against the subtle but powerful attraction of hind-sight obviousness analysis is ***rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.*** Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight.

175 F.3d at 999, 50 U.S.P.Q.2d at 1617 (emphasis added) (citations omitted; emphasis added).

## 2. Argument

For example, the Examiner states:

For example, Cheng, from a similar field of endeavor, teaches a wavelength division multiplexer (20 fig. 3) coupled to at least some of a plurality of integrated modules (16 of fig. 3) and coupled to an optical splitter (50 of fig. 3) . . . .

(Office Action, Pages 10-11). Thus, the Examiner characterizes *Arthurs '167* and *Cheng* as being “from the same field of endeavor,” and then concludes that it would have been obvious to combine them. (Office Action, Page 5) First, Applicant does not agree that a reference directed to a method of multicast packet switching (*Arthurs '167*) is necessarily “from the same field of endeavor” as a reference directed to wavelength division multiplexing using a tunable acousto-optic filter (*Cheng*). However, even assuming that *Arthurs '167* and *Cheng* are at least marginally in the same general field of endeavor, the Examiner has not demonstrated the requisite teaching, suggestion, or motivation in either of these references or in the knowledge generally available to one of ordinary skill in the art at the time of Applicant’s invention to combine or modify these references in the manner the Examiner proposes.

According to the Examiner, it would have been obvious to a person of skill in the art at the time the invention was made to combine the teachings of *Arthurs '167* with *Cheng* or *Arthurs '681* with *Cheng* or *Arthurs '167*. The Examiner provides essentially no support in the *Arthurs '167* reference, *Arthurs '681* reference, and/or *Cheng* reference for these assertions. Applicant respectfully submits that the Examiner’s assertion that it would have been obvious to modify the teachings of *Arthurs '167* with *Cheng* or *Arthurs '681* with *Cheng* or *Arthurs '167* to purportedly arrive at Applicant’s invention is entirely insufficient to support a *prima facie* case of obviousness under 35 U.S.C. § 103(a) under the M.P.E.P. and the governing Federal Circuit case law. Consequently, the Examiner has not demonstrated the requisite teaching, suggestion, or motivation in either of the reference or in the knowledge that is supposedly generally available to one of ordinary skill in the art at the time of Applicant’s invention to combine or modify these references in the manner the Examiner proposes.

It appears that the Examiner is merely proposing alleged advantages of modifying *Arthurs '167* with *Cheng* or *Arthurs '681* with *Cheng* or *Arthurs '167* (advantages which Applicant does not admit could even be achieved by combining these references in the manner the Examiner proposes). While the Examiner has cited portions of *Arthurs '167*, *Arthurs '681*, and *Cheng* the Examiner has not pointed to any portions of the cited references or to knowledge supposedly generally available to those of ordinary skill in the art at the time of the invention that would teach, suggest, or motivate one of ordinary skill in the art at the time of invention to modify the system disclosed in *Arthurs '167* or *Arthurs '681* as suggested by the Examiner. In other words, the alleged advantage of the system described by the Examiner does not provide an explanation as to: (1) why it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention (*without using Applicant's claims as a guide*) to modify the particular techniques disclosed in *Arthurs '167* or *Arthurs '681* as suggested by the Examiner; (2) how one of ordinary skill in the art at the time of Applicant's invention would have actually done so; and (3) how doing so would purportedly meet the limitations of the claims. Indeed, if it were sufficient for Examiners to merely point to a purported advantage and conclude that it would have been obvious to combine or modify that reference with other references simply based on that advantage (which, as should be evident from the case law discussed above, it certainly is not), then virtually any two references would be combinable just based on the fact the one reference states an advantage of its system. Of course, as the Federal Circuit has made clear and as discussed above, that is not the law.

It certainly would not have been obvious to one of ordinary skill in the art at the time of invention *to even attempt* to, let alone *to actually*, modify or combine the system disclosed in *Arthurs '167* with *Cheng* or *Arthurs '681* with *Cheng* or *Arthurs '167* in the manner proposed by the Examiner. Applicant respectfully submits that the Examiner's attempt to modify or combine *Boroditsky* with *Fincato* appears to constitute the type of impermissible hindsight reconstruction of Applicant's claims, using Applicant's claims as a blueprint, that is specifically prohibited by the M.P.E.P. and governing Federal Circuit cases.

Accordingly, since the prior art fails to provide the required teaching, suggestion, or motivation to modify *Arthurs '167* or *Arthurs '681* in the manner the Examiner proposes,

Applicant respectfully submits that the Examiner's conclusions set forth in the Office Action do not meet the requirements set forth in the M.P.E.P. and the governing Federal Circuit case law for demonstrating a *prima facie* case of obviousness. Applicant respectfully submits that the rejection must therefore be withdrawn.

#### **D. Conclusion**

For at least these reasons, Applicant respectfully requests reconsideration and allowance of independent Claims 1, 18, and 36, and claims depending therefrom.

#### **No Waiver**

All of Applicant's arguments and amendments are without prejudice or disclaimer. Additionally, Applicant has merely discussed example distinctions from the *Arthurs '167*, *Arthurs '681*, *Okayama*, *Labriola*, *Cheung*, and *Dantu* references. Other distinctions may exist, and Applicant reserves the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicant does not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicant are sufficient to overcome the anticipation and obviousness rejections.

**CONCLUSION**

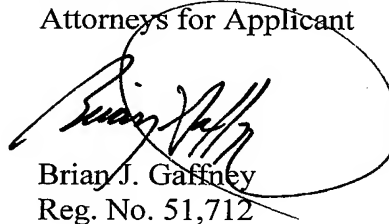
Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

Applicant believes no fee is due. However, the Commissioner is hereby authorized to charge any fee or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If the Examiner feels that a conference would advance prosecution of this Application in any manner, Brian J. Gaffney stands willing to conduct such a telephone interview at the convenience of the Examiner. Mr. Gaffney may be reached at (214) 953-6682.

Respectfully submitted,

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Date: Nov. 15, 2006